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STATE BOARD OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF DENTISTRY

In the Matter of the Suspension:  
Or Revocation of the License of:

ALBERT F. JOHANN, JR. D.M.D.	:	Administrative Action
	:	
To practice Dentistry	:	FINAL DECISION AND ORDER
In the State of New Jersey	:	
_____	:	

This matter was opened to the New Jersey State Board of Dentistry ("Board) upon the February 28, 1997 filing of a Notice Of Motion For Default And Revocation, the Affidavit of Agnes M. Clarke together with exhibits, and a Verified Complaint In Support of Motion For Default And Revocation by John DeCicco, Deputy Attorney General on behalf of Peter Verniero, Attorney General of New Jersey. The Complaint against Albert F. Johann, Jr., D.M.D. (hereinafter "respondent") alleged in thirteen counts that respondent failed to comply with the Board's Final Decision And Order which was duly entered on March 14, 1996 and served upon him; thereby committing professional or occupational misconduct in violation of N.J.A.C. 13:45C-1.4, and failing to comply with provisions of acts and regulations administered by the Board contrary to N.J.S.A. 45:1-21(h).

A formal hearing in this matter was held on April 2, 1997. Deputy Attorney General (hereinafter "DAG") John DeCicco appeared on behalf of the complainant and respondent appeared pro se. DAG DeCicco recited respondent's history with the Board, specifically detailing the Board's Final Decision And Order entered on March 14, 1996, hereby incorporated by reference, with which respondent has

failed to comply and upon which the current Verified Complaint in Support of a Motion of Default and Revocation is premised. In mitigation of the allegations which he admitted, respondent stated that he was in bankruptcy, and that he had had neither the money to continue payments he owed the Board nor time to complete the required continuing education.

The board conducted its deliberations in executive session on April 2, 1997 and announced its decision in public session on that same date. In consideration of the record herein, the Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Albert F. Johann, Jr. D.M.D., license number D1008240, is a licensed dentist in the State of New Jersey and has been a licensee during all times pertinent hereto.

2. This hearing arises out of a Final Decision and Order filed with the Board on March 14, 1996. Said Order ordered: (1) respondent to pay a civil penalty in the amount of \$1,500.00 for practicing dentistry while his license was suspended; (2) respondent to pay costs in the amount of \$500.00; (3) the total amount of \$2,000.00 to be paid in monthly installments of \$100.00 per month beginning on April 15, 1996; (4) the twenty credits of continuing education required for the 1993-1995 biennial licensing period and the \$500.00 civil penalty assessed for failure to complete the continuing education requirements to be waived; (5) respondent to complete the forty credit hours required for the 1995-1997 biennial licensing period by October 31, 1997; (6)

respondent to notify the Board every six months, beginning on July 1, 1996, as to the courses he had taken to fulfill his continuing education; and (7) the license of respondent to practice dentistry to be suspended indefinitely which suspension was stayed, provided that respondent complied with the Order.

3. Respondent made the monthly \$100.00 payments in the months March through October with the exception of August. After the instant action was filed against respondent, he paid an additional \$300.00 toward his civil penalty. Therefore, respondent has paid a total of \$1,000.00 toward the civil penalty and cost, and he owes \$1,000.00.

4. On July 1, 1996, respondent did not notify the Board of the courses he had taken to fulfill the forty credit hours of continuing education required for the 1995-1997 biennial licensing period.

5. By letter of November 13, 1996, Executive Director Agnes Clarke advised respondent of his obligation to notify the Board of the courses he had taken to date, and the letter directed that proof of the courses be submitted to the Board within ten days of said letter. By letter of November 24, 1996 to Executive Director Clarke, respondent indicated that he had not taken any courses. By letter of December 3, 1996, Executive Director Clarke advised respondent that she had not yet received a copy of his response to her letter dated November 13, 1996, and further advised him that the Board had not received his November monthly installment in the amount of \$100.00. The letter advised respondent that he must

reply within seven days or the matter would be forwarded to the Board for appropriate action. No response was received by the Board office to that letter.

#### CONCLUSIONS OF LAW

1. Respondent violated N.J.A.C. 13:45C-1.4 by failing to comply with an Order duly entered and served upon him of which he had knowledge, and therefore he committed professional misconduct.
2. Respondent violated N.J.S.A. 45:1-21 (h) by failing to comply with provisions of acts and regulations administered by the Board.

#### DISCUSSION

As shown by the testimony and the documents submitted at the hearing in this matter, respondent has repeatedly failed or refused to correspond, communicate or cooperate with the Board. Despite communications from the Board office and issuance of Board Orders, respondent has failed to take required continuing education, failed to pay civil penalties imposed by the Board, failed to appear for a hearing, and failed to cease practicing dentistry when the Board suspended his license for a thirty day period.

Respondent's flouting of the Board and its regulatory authority obstructs and frustrates the Board's ability to carry out its statutory duty to protect the public and cannot be countenanced. However, as the March 14, 1996 Final Decision and Order reflects, the Board took into consideration respondent's mitigating circumstances and allowed him another opportunity to practice dentistry and comply with the Board's Order.

Unfortunately, on April 2, 1997, respondent was once again before the Board for a hearing arising out of his failure to comply with the March 14, 1996 Final Decision and Order. At this time, it appears to the Board that there are still mitigating circumstances stemming from respondent's severe financial problems. Therefore, the Board has determined to give respondent one last opportunity to continue practicing dentistry so long as he complies with the within Order. Consequently, and for the foregoing reasons,

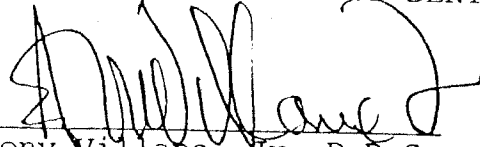
IT IS ON THIS 7<sup>th</sup> DAY OF MAY 1997,

HEREBY ORDERED THAT:

1. By October 31, 1997, respondent shall have completed and submitted proof of completion to the Board of forty (40) hours of continuing education for the 1995-1997 biennial licensing period.
2. By June 1, 1998, respondent shall have completed and submitted proof of completion to the Board of forty (40) hours of continuing education for the 1997-1999 biennial licensing period.
3. Within seven days of the entry of this Order, respondent shall submit proof to the Board that it has been listed as a creditor for the amount of \$1,000.00 in his bankruptcy proceedings.
4. Respondent is suspended indefinitely from the practice of dentistry in the State of New Jersey, and this suspension is stayed so long as respondent is in full and complete compliance with the within Order. In the event that respondent fails to comply with

any term or condition of the within Order, the stayed indefinite suspension shall immediately become an active indefinite suspension.

NEW JERSEY STATE BOARD OF DENTISTRY

A handwritten signature in dark ink, appearing to read "Anthony Villane, Jr.", written over a horizontal line.

Anthony Villane, Jr. D.D.S.  
President